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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE A. ORTIZ,

Plaintiff,

v.

GEORGIA PACIFIC,

Defendant.

) 1:12-cv-1033 LJO GSA

) **INFORMATIONAL ORDER**

Parties to this litigation shall take note of the following requirements:

In litigating this action, the parties must comply with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court, Eastern District of California (“Local Rules”). This order highlights specific rules of which the parties should take particular note. **Failure to comply with the Local Rules, federal rules or a court order, including this order, will be grounds for dismissal, entry of default or other appropriate sanctions.** See Local Rule 110; Fed. R. Civ. P. 41(b).

1 5. All filings must bear the case or file number assigned to the action, followed by
2 the initials of the District Court Judge and the Magistrate Judge to whom the case is assigned.
3 Where plaintiff simultaneously pursues more than one action, he or she must file separate
4 original documents and the appropriate number of copies in each action to which the document
5 pertains. **Documents submitted listing more than one case number in the caption will be**
6 **stricken.**

7 6. The Court cannot serve as a repository for the parties' evidence. The parties may
8 not file evidence with the Court until the course of litigation brings the evidence into question
9 (for example, on a motion for summary judgment, at trial, or when requested by the Court).
10 **Evidence improperly submitted to the Court will be stricken and returned to the party.**

11 7. All Court deadlines will be strictly enforced. Requests for time extensions must
12 state the reason the extension is needed and must be filed with the Court before the deadline in
13 question. *See* Local Rule 144.

14 8. A plaintiff proceeding in propria persona has an affirmative duty to keep the Court
15 and opposing parties informed of his or her current address. If a plaintiff moves and fails to file a
16 notice of change of address, service of Court orders at plaintiff's prior address shall constitute
17 effective notice. *See* Local Rule 182(f). If mail directed to plaintiff is returned by the U.S. Postal
18 Service as undeliverable, the Court will not attempt to remail it. **If the address is not updated**
19 **within 60 days of the mail being returned, the action will be dismissed for failure to**
20 **prosecute.** *See* Local Rule 183(b).

21 9. Due to the press of business, the Court cannot respond to individual requests for
22 the status of cases. Any such requests will be denied. So long as the parties inform the Court of
23 any address changes in compliance with Local Rule 183(b), the Court will notify the parties of
24 any Court action taken in their case.

25 10. Defendants must reply to the complaint within the time provided by the
26 applicable provisions of Federal Rules of Civil Procedure rule 12(a).

1 11. Unless otherwise ordered, all motions to dismiss, motions for summary
2 judgment, motions concerning discovery, motions pursuant to Rules 7, 11, 12, 15, 41, 55, 56, 59
3 and 60 of the Federal Rules of Civil Procedure, and motions pursuant to Local Rule 110, shall be
4 briefed pursuant to Local Rule 230. Failure to oppose such a motion timely may be deemed a
5 waiver of opposition to the motion.

6 12. At some point in the litigation, one or more defendants may move for
7 summary judgment as to some or all of plaintiff's claims. Pursuant to *Klinge v. Eikenberry*,
8 849 F.2d 409 (9th Cir. 1988), plaintiff is advised of the following requirements for opposing a
9 motion for summary judgment made by defendants pursuant to Rule 56 of the Federal Rules of
10 Civil Procedure. Such a motion is a request for an order for judgment on some or all of
11 plaintiff's claims in favor of defendants without trial. *See* Fed. R. Civ. P. 56(b). Defendant(s)'
12 motion will set forth the facts which defendants contend are not reasonably subject to dispute and
13 that entitle defendant to judgment as a matter of law. *See* Fed. R. Civ. P. 56(c).

14 Plaintiff has the right to oppose a motion for summary judgment. To oppose the motion,
15 plaintiff must show proof of his or her claims. Plaintiff may agree with the facts set forth in
16 defendant(s)' motion but argue that defendant(s) are not entitled to judgment as a matter of law.
17 Plaintiff may show defendant(s)' facts are disputed in one or more of the following ways: (1)
18 plaintiff may rely upon statements made under the penalty of perjury in the complaint if the
19 complaint shows that plaintiff has personal knowledge of the matters stated and if plaintiff calls
20 to the court's attention those parts of the complaint upon which plaintiff relies; (2) plaintiff may
21 also serve and file affidavits or declarations² setting forth the facts which plaintiff believes prove
22

23 ²An affidavit is a written declaration or statement of facts, made voluntarily, and
24 confirmed by the oath or affirmation of the party making it, taken before an officer having
25 authority to administer such oath. An unsworn declaration has the same effect as an affidavit,
26 provided that it is dated and signed under penalty of perjury, as follows: "I declare under penalty
27 of perjury that the foregoing is true and correct." 28 U.S.C. § 1746. Affidavits and declarations
must be made on personal knowledge and must set forth facts as would be admissible in
evidence. *See* Fed. R. Civ. P. 56(e).

1 plaintiff's claims (the persons who sign the affidavit or declaration must have personal
2 knowledge of the facts stated); (3) plaintiff may also rely upon written records but plaintiff must
3 prove that the records are what plaintiff claims they are;³ (4) plaintiff may also rely upon all or
4 any part of the transcript of one or more depositions, answers to interrogatories, or admissions
5 obtained in this proceeding. Should plaintiff fail to contradict defendants' motion with
6 affidavits, declarations, or other evidence, defendants' evidence will be taken as truth, and final
7 judgment may be entered without a full trial. *See* Fed. R. Civ. P. 56(e).

8 If there is some good reason why such facts are not available to plaintiff when required to
9 oppose such a motion, the Court will consider a request to postpone considering defendant(s)'
10 motion. *See* Fed. R. Civ. P. 56(f). If plaintiff does not serve and file a request to postpone
11 consideration of defendant(s)' motion or written opposition to the motion, the court may consider
12 plaintiff's failure to act as a waiver of opposition to defendant(s)' motion. Plaintiff's waiver of
13 opposition to defendant(s)' motion may result in the entry of summary judgment against plaintiff.

14 13. A motion supported by affidavits or declarations that are unsigned will be
15 stricken.

16 14. The failure of any party to comply with this order, the Federal Rules of
17 Civil Procedure, or the Local Rules of Court, may result in the imposition of sanctions including,
18 but not limited to, dismissal of the action or entry of default.

19
20 IT IS SO ORDERED.

21 Dated: August 10, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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26 _____
27 ³Sworn or certified copies of all papers referred to in an affidavit must be attached to the
28 affidavit and served on the opposing party. Fed. R. Civ. P. 56(e).